

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

STATE OF TENNESSEE,
Plaintiff,

v.

IHI CLINICS, INC., a foreign
corporation,

Defendant.

**MOTION FOR TEMPORARY INJUNCTION AND/OR RESTRAINING
ORDER**

The State of Tennessee, through the Division of Consumer Affairs of the Department of Commerce and Insurance and the Attorney General and Reporter, moves this Court, pursuant to Section 47-18-108(a) of the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, *et seq.* ("the Act"), for a statutory injunction temporarily enjoining the Defendant IHI Clinics, Inc., its officers, directors, employees, agents, successors and assigns, and other persons in active concert or participation with the Defendant who receive actual notice of this temporary injunction, from engaging, directly or indirectly, in acts which are unfair or deceptive to consumers, including, but not limited to, the following:

(a) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship approval, status, affiliation or connection that such person does not have (47-18-104(b)(5); and

(b) Engaging in other acts or practices which are deceptive to the consumer or to other persons (47-18-104(b)(27)). Specifically, the Court should order the following:

(1) The Defendant shall not conduct the seminars scheduled for presentation at the Quality Inn - West, Knoxville, Tennessee on Thursday, March 23, 1995, or any other seminars scheduled for locations within the State of Tennessee which were promoted using the same or similar advertisements as that which is attached as Exhibit B to the State's Complaint unless, prior to conducting such seminars, the Defendant provides reliable and competent medical and/or scientific evidence substantiating to this Honorable Court the following claims:

(A) That a certain amount of weight loss can be expected by the individual consumer;

(B) That the program is relatively or absolutely effective at reducing weight;

(C) That the Defendant or any employee, agent and/or representative is a "certified hypnotherapist", given the State of Tennessee does not certify hypnotherapist.

(D) That it is "safe" to lose a specified amount of weight using Defendant's weight loss program;

(E) That supervision by a physician is not necessary for safe, fast weight loss of up to ninety pounds;

(F) That weight loss is "guaranteed" as effective for each individual consumer in attendance at Defendant's hypnosis seminar;

(G) That every individual is susceptible to hypnosis or that every individual will be hypnotized during Defendant's seminar;

(H) That weight loss will not require calorie counting, starving, dieting, or result in cravings;

(I) That weight loss will be "fast" or that weight loss will be attained faster or quicker than through other weight loss programs; and

(J) That any consumers' damages are limited to attendance at an additional weight loss seminar.

Additionally, the Court should temporarily and permanently enjoin the Defendant from engaging in the following activities:

A. Defendant shall not engage in any unfair or deceptive acts or practices in the conduct of its business and shall fully comply with all applicable provisions of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101, *et seq*;

B. Defendant shall not conduct, participate, and/or promote any weight loss seminar in the State of Tennessee involving the use of hypnosis for the purpose of helping individuals lose and/or reduce weight unless Defendant, at the time of making any such representation, possesses and relies upon competent and reliable scientific and/or medical evidence substantiating that conducting such a seminar is in all respects safe.

C. Defendant shall fully comply with all aspects of Tenn. Code Ann. § 47-18-120, *et. seq.* when offering a "bonus", prize, gift, award, incentive promotion or anything of value.

D. Defendant shall not conduct any "bonus" drawing or offer any gift, prize or other item of value in a manner which would violate Tennessee law regarding lotteries.

E. Defendant shall not directly or indirectly represent, state, solicit, promote and/or advertise that the effect of its hypnosis service is permanent, "forever", "once and for all", "keep it off for good", or term of similar import, unless Defendant possesses and relies upon competent and reliable scientific and/or medical evidence substantiating that the services do in fact result in permanent or lasting effects. If Defendant represents, directly or indirectly that such results will be available to everyone, all, "you", or terms of similar import, the evidence must substantiate such claims for each individual.

F. Defendant shall not directly or indirectly represent, state, solicit, promote and/or advertise that its hypnosis services are effective for everyone, all, "you", or terms of similar import, unless Defendant possesses and relies upon competent and reliable scientific and/or medical evidence substantiating that its services are effective for every person.

G. Defendant shall not directly or indirectly, represent, state, solicit, promote, and/or advertise weight loss seminars by representing that the program is relatively or absolutely effective at reducing weight unless Defendant, at the time of making any such representation, possesses, and relies upon competent and reliable scientific and/or medical evidence substantiating the representation.

H. Defendant shall not directly or indirectly, represent, state, solicit, promote, and/or advertise that it, any employee, agent and/or representative is a "certified hypnotherapist".

I. Defendant shall not directly or indirectly, represent, state, solicit, promote, and/or advertise that it is "safe" to lose weight under Defendant's program unless, at the time of making any such representation or claim, Defendant possesses, and relies upon competent and reliable scientific and/or medical evidence substantiating the representation that the program is "safe" for each person.

J. Defendant shall clearly and conspicuously disclose to consumers in the initial solicitation and again at the beginning of each weight loss seminar when representing, stating, soliciting, promoting and/or encouraging consumers to lose a specific amount of weight that they should be under the close supervision of a physician at all times.

K. Defendant shall not directly or indirectly, state, represent, solicit, promote and/or advertise that weight loss is "guaranteed", unless at the time of making such representation, Defendant provides that the consumer's money will be refunded at any time or that the consumer may, at the consumer's election, choose to attend additional weight loss hypnosis seminars as many times as desired. The refund policy must be clearly and conspicuously disclosed in all solicitations, promotions and/or advertisements and at the actual seminars, and indicate that either option is fully available to all consumers without restriction.

L. Defendant shall not directly or indirectly, represent, state, solicit, promote and/or advertise that everyone is capable and/or susceptible to hypnotism, or can be hypnotized, in any advertisement, solicitation, and/or promotional material, unless, at the time of making such representation, Defendant possesses and relies upon competent and reliable scientific and/or medical proof substantiating such claim.

M. Defendant shall not directly or indirectly, represent, state, solicit, promote and/or advertise that weight loss will not require "dieting", "calorie counting", "cravings" or "starving" unless, at the time of making such representation, Defendant possesses and relies upon competent and reliable scientific and/or medical proof substantiating such claim. If Defendant represents, directly or indirectly that such claims will be available to everyone, all, "you", or terms of similar import, the evidence must substantiate such claims for each person.

N. Defendant shall not directly or indirectly, represent, state, solicit, promote and/or advertise that its weight loss seminar will not require "dieting" and then promote dieting of any form in connection with the seminar.

O. Defendant shall not directly or indirectly, represent, state, solicit, promote and/or advertise that weight loss will be "fast" or term of similar import, unless, at the time of making such representation, Defendant possesses and relies upon competent and reliable scientific and/or medical evidence substantiating such claim. If Defendant represents, directly or indirectly, that such results will be available to everyone, all, "you", or terms of similar import, the evidence must substantiate such claims for each individual.

P. Defendant shall not limit or purport to limit any damages or recovery to which consumers may be entitled under Tennessee law. Defendant is specifically prohibited from restricting any refund or guarantee exclusively to attendance at another seminar.

The State's Motion should be granted because the Defendant has engaged in unfair and/or deceptive acts or practices in violation of the Act. In support of this Motion, the State relies upon the Complaint filed against the Defendant, the Memorandum in Support of Motion for Temporary Injunction and/or Temporary Restraining Order, and the exhibits filed simultaneously herewith.

THIS IS THE STATE'S FIRST REQUEST FOR EXTRAORDINARY RELIEF.